

part. Subpart R of this part is applicable only to those covered manufacturers as defined under the provisions of subpart R of this part. All provisions of this subpart S are applicable to vehicles certified pursuant to subpart R of this part, except as specifically noted in subpart R of this part.

(f) *“Early” Tier 2 LDVs, LDTs and MDPVs.* Any LDV/LLDT which is certified to Tier 2 FTP exhaust standards prior to the 2004 model year, or any HLDT or MDPV which is certified to the Tier 2 FTP exhaust standards prior to the 2008 model year, to utilize alternate phase-in schedules and/or for purposes of generating and banking Tier 2 NO_x credits, must comply with all the exhaust emission requirements applicable to Tier 2 LDV/LLDTs or HLDT/MDPVs, as applicable, under this subpart.

(g) *Interim non-Tier 2 LDVs, LDTs and MDPVs.* Model year 2004-2008 LDVs, LDTs and MDPVs, that do not comply with the Tier 2 FTP exhaust emission requirements (interim non-Tier 2 LDV/LLDTs and interim non-Tier 2 HLDT/MDPVs) as permitted under the phase-in requirements of § 86.1811-04(k) must comply with all applicable interim non-Tier 2 exhaust emission requirements contained in this subpart, including FTP exhaust emission requirements for all interim non-Tier 2 LDV/LLDTs and HLDT/MDPVs found at § 86.1811-04(l). Additional emission bins and separate fleet average NO_x emission standards and other provisions are provided for interim non-Tier 2 LDV/LLDTs, and interim non-Tier 2 HLDT/MDPVs.

(h) *Applicability of provisions of this subpart to LDVs, LDTs, MDPVs and HDVs.* Numerous sections in this subpart provide requirements or procedures applicable to a “vehicle” or “vehicles.” Unless otherwise specified or otherwise determined by the Administrator, the term “vehicle” or “vehicles” in those provisions apply equally to LDVs, LDTs, MDPVs and HDVs.

[64 FR 23925, May 4, 1999, as amended at 65 FR 6851, Feb. 10, 2000; 65 FR 59963, Oct. 6, 2000; 67 FR 72825, Dec. 6, 2002; 76 FR 19873, Apr. 8, 2011]

§ 86.1801-12 Applicability.

(a) *Applicability.* Except as otherwise indicated, the provisions of this subpart apply to new light-duty vehicles, light-duty trucks, medium-duty passenger vehicles, and Otto-cycle complete heavy-duty vehicles, including multi-fueled, alternative fueled, hybrid electric, plug-in hybrid electric, and electric vehicles. These provisions also apply to new incomplete light-duty trucks below 8,500 Gross Vehicle Weight Rating. In cases where a provision applies only to a certain vehicle group based on its model year, vehicle class, motor fuel, engine type, or other distinguishing characteristics, the limited applicability is cited in the appropriate section of this subpart.

(b) *Clean alternative fuel conversions.* The provisions of the subpart apply to clean alternative fuel conversions as defined in 40 CFR 85.502, of all model year light-duty vehicles, light-duty trucks, medium duty passenger vehicles, and complete Otto-cycle heavy-duty vehicles.

(c) *Optional applicability.*

(1) [Reserved]

(2) A manufacturer may request to certify any incomplete Otto-cycle heavy-duty vehicle of 14,000 pounds Gross Vehicle Weight Rating or less in accordance with the provisions for complete heavy-duty vehicles. Heavy-duty engine or heavy-duty vehicle provisions of subpart A of this part do not apply to such a vehicle.

(3) [Reserved]

(4) Upon preapproval by the Administrator, a manufacturer may optionally certify a clean alternative fuel conversion of a complete heavy-duty vehicle greater than 10,000 pounds Gross Vehicle Weight Rating and of 14,000 pounds Gross Vehicle Weight Rating or less under the heavy-duty engine or heavy-duty vehicle provisions of subpart A of this part. Such preapproval will be granted only upon demonstration that chassis-based certification would be infeasible or unreasonable for the manufacturer to perform.

(5) A manufacturer may optionally certify a clean alternative fuel conversion of a complete heavy-duty vehicle greater than 10,000 pounds Gross Vehicle Weight Rating and of 14,000 pounds Gross Vehicle Weight Rating or less

under the heavy-duty engine or heavy-duty vehicle provisions of subpart A of this part without advance approval from the Administrator if the vehicle was originally certified to the heavy-duty engine or heavy-duty vehicle provisions of subpart A of this part.

(d) *Small volume manufacturers.* Special certification procedures are available for any manufacturer whose projected or actual combined sales in all states and territories of the United States of light-duty vehicles, light-duty trucks, heavy-duty vehicles, and heavy-duty engines in its product line (including all vehicles and engines imported under the provisions of 40 CFR 85.1505 and 85.1509) are fewer than 15,000 units for the model year in which the manufacturer seeks certification. The small volume manufacturer's light-duty vehicle and light-duty truck certification procedures are described in § 86.1838–01.

(e)–(g) [Reserved]

(h) *Applicability of provisions of this subpart to light-duty vehicles, light-duty trucks, medium-duty passenger vehicles, and heavy-duty vehicles.* Numerous sections in this subpart provide requirements or procedures applicable to a “vehicle” or “vehicles.” Unless otherwise specified or otherwise determined by the Administrator, the term “vehicle” or “vehicles” in those provisions apply equally to light-duty vehicles (LDVs), light-duty trucks (LDTs), medium-duty passenger vehicles (MDPVs), and heavy-duty vehicles (HDVs), as those terms are defined in § 86.1803–01.

(i) *Applicability of provisions of this subpart to exhaust greenhouse gas emissions.* Numerous sections in this subpart refer to requirements relating to “exhaust emissions.” Unless otherwise specified or otherwise determined by the Administrator, the term “exhaust emissions” refers at a minimum to emissions of all pollutants described by emission standards in this subpart, including carbon dioxide (CO₂), nitrous oxide (N₂O), and methane (CH₄).

(j) *Exemption from greenhouse gas emission standards for small businesses.* Manufacturers that qualify as a small business under the Small Business Administration regulations in 13 CFR part 121 are exempt from the greenhouse gas emission standards specified in

§ 86.1818–12 and in associated provisions in this part and in part 600 of this chapter. Both U.S.-based and non-U.S.-based businesses are eligible for this exemption. The following categories of businesses (with their associated NAICS codes) may be eligible for exemption based on the Small Business Administration size standards in 13 CFR 121.201.

(1) Vehicle manufacturers (NAICS code 336111).

(2) Independent commercial importers (NAICS codes 811111, 811112, 811198, 423110, 424990, and 441120).

(3) Alternate fuel vehicle converters (NAICS codes 335312, 336312, 336322, 336399, 454312, 485310, and 811198).

(k) *Conditional exemption from greenhouse gas emission standards.* Manufacturers meeting the eligibility requirements described in paragraph (k)(1) and (2) of this section may request a conditional exemption from compliance with the emission standards described in § 86.1818–12 paragraphs (c) through (e) and associated provisions in this part and in part 600 of this chapter. The terms “sales” and “sold” as used in this paragraph (k) shall mean vehicles produced and delivered for sale (or sold) in the states and territories of the United States. For the purpose of determining eligibility the sales of related companies shall be aggregated according to the provisions of § 86.1838–01(b)(3).

(1) *Eligibility requirements.* Eligibility as determined in this paragraph (k) shall be based on the total sales of combined passenger automobiles and light trucks. Manufacturers must meet one of the requirements in paragraph (k)(1)(i) or (ii) of this section to initially qualify for this exemption.

(i) A manufacturer with 2008 or 2009 model year sales of more than zero and fewer than 5,000 is eligible for a conditional exemption from the greenhouse gas emission standards described in § 86.1818–12 paragraphs (c) through (e).

(ii) A manufacturer with 2008 or 2009 model year sales of more than zero and fewer than 5,000 while under the control of another manufacturer, where those 2008 or 2009 model year vehicles bore the brand of the producing manufacturer but were sold by or otherwise

under the control of another manufacturer, and where the manufacturer producing the vehicles became independent no later than December 31, 2010, is eligible for a conditional exemption from the greenhouse gas emission standards described in § 86.1818-12 paragraphs (c) through (e).

(2) *Maintaining eligibility for exemption from greenhouse gas emission standards.* To remain eligible for exemption under this paragraph (k) the manufacturer's average sales for the three most recent consecutive model years must remain below 5,000. If a manufacturer's average sales for the three most recent consecutive model years exceeds 4999, the manufacturer will no longer be eligible for exemption and must meet applicable emission standards according to the provisions in this paragraph (k)(2).

(i) If a manufacturer's average sales for three consecutive model years exceeds 4999, and if the increase in sales is the result of corporate acquisitions, mergers, or purchase by another manufacturer, the manufacturer shall comply with the emission standards described in § 86.1818-12 paragraphs (c) through (e), as applicable, beginning with the first model year after the last year of the three consecutive model years.

(ii) If a manufacturer's average sales for three consecutive model years exceeds 4999 and is less than 50,000, and if the increase in sales is solely the result of the manufacturer's expansion in vehicle production, the manufacturer shall comply with the emission standards described in § 86.1818-12 paragraphs (c) through (e), as applicable, beginning with the second model year after the last year of the three consecutive model years.

(iii) If a manufacturer's average sales for three consecutive model years exceeds 49,999, the manufacturer shall comply with the emission standards described in § 86.1818-12 paragraphs (c) through (e), as applicable, beginning with the first model year after the last year of the three consecutive model years.

(3) *Requesting the conditional exemption from standards.* To be exempted from the standards described in § 86.1818-12(c) through (e), the manufacturer must submit a declaration to

EPA containing a detailed written description of how the manufacturer qualifies under the provisions of this paragraph (k). The declaration must describe eligibility information that includes the following: model year 2008 and 2009 sales, sales volumes for each of the most recent three model years, detailed information regarding ownership relationships with other manufacturers, details regarding the application of the provisions of § 86.1838-01(b)(3) regarding the aggregation of sales of related companies, and documentation of good-faith efforts made by the manufacturer to purchase credits from other manufacturers. This declaration must be signed by a chief officer of the company, and must be made prior to each model year for which the exemption is requested. The declaration must be submitted to EPA at least 30 days prior to the introduction into commerce of any vehicles for each model year for which the exemption is requested, but not later than December of the calendar year prior to the model year for which exemption is requested. A conditional exemption will be granted when EPA approves the exemption declaration. The declaration must be sent to the Environmental Protection Agency at the following address: Director, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, Michigan 48105.

[75 FR 25682, May 7, 2010, as amended at 76 FR 19873, Apr. 8, 2011]

§ 86.1802-01 Section numbering; construction.

(a) *Section numbering.* The model year of initial applicability is indicated by the section number. The two digits following the hyphen designate the first model year for which a section is applicable. The section continues to apply to subsequent model years unless a later model year section is adopted. Example: Section 86.18xx-01 applies to the 2001 and subsequent model years. If a § 86.18xx-03 is promulgated it would apply beginning with the 2003 model year; § 86.18xx-01 would apply to model years 2001 through 2002.

(b) A section reference without a model year suffix refers to the section